

**Notice of Allowability**

Application No.

10/815,625

Examiner

Timothy J. Kugel

Applicant(s)

HALL ET AL.

Art Unit

1712

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment after final rejection filed 27 November 2006.
2. ☒ The allowed claim(s) is/are 1,3-17 and 19-51.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |                                                                                                            |                                                                                       |
|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 5. <input type="checkbox"/> Notice of Informal Patent Application                     |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|                                                                                                            | 9. <input type="checkbox"/> Other _____                                               |

### **DETAILED ACTION**

1. Claims 1, 3-17 and 19-51 are pending as amended on 27 November 2006.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Response to Amendment***

3. Applicant's terminal disclaimer, filed 27 November 2006, has been fully considered and is proper.

The provisional rejection of claims 1, 3-17 and 19-24 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5-14 and 16-25 of copending Application No. 10/815,624 has been withdrawn.

The provisional rejection of claims 1, 3-17 and 19-24 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5, 6, 8-13 and 15-28 of copending Application No. 10/815,628 has been withdrawn.

### ***Election/Restrictions***

4. Claims 1, 3-17 and 19-24 directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 25-51, directed to an apparatus comprising an allowable product and a process of using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

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Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 25 April 2006 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicants are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

#### EXAMINER'S AMENDMENT

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Please amend claims 47 and 50 as follows:

47. (Currently amended) the method of claim 44 or 45 in which the coded data is indicative of at least one of a ~~UPC and an EPG~~ Universal Product Code or an Electronic Product Code associated with the product item.

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50. (Currently amended) the method of claim 48 in which the coded data is indicative of at least one of a ~~UPC and an EPG~~ Universal Product Code or an Electronic Product Code associated with the product item.

***Allowable Subject Matter***

6. Claims 1, 3-17 and 19-51 are allowed for the reasons of record.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Kugel whose telephone number is (571) 272-1460. The examiner can normally be reached 6:00 AM – 4:30 PM Monday - Thursday.

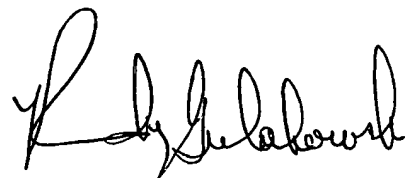
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

TJK  
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A handwritten signature in black ink, appearing to read "Randy Gulakowski". The signature is fluid and cursive, with the first name "Randy" being more prominent than the last name "Gulakowski".

RANDY GULAKOWSKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700